



February 10, 2009

SENATE BILL No. 523

DIGEST OF SB 523 (Updated February 5, 2009 2:06 pm - DI 103)

Citations Affected: IC 5-28; IC 6-2.5.

Synopsis: High speed Internet service initiative. Requires the economic development corporation to develop a high speed Internet service deployment and adoption initiative, including the creation of a statewide geographic information system of telecommunications and information technology services. Exempts from the state gross retail tax certain tangible personal property related to the provision of the following services: (1) Mobile telecommunications. (2) Broadband. (3) Cable.

Effective: July 1, 2009.

Hershman, Merritt, Broden

January 15, 2009, read first time and referred to Committee on Utilities & Technology.
February 9, 2009, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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February 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 523

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-28-33 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]:
4 **Chapter 33. High Speed Internet Service Deployment and**
5 **Adoption Initiative**
6 **Sec. 1. As used in this chapter, "GIS" refers to the statewide**
7 **geographic information system described in section 3 of this**
8 **chapter.**
9 **Sec. 2. As used in this chapter, "high speed Internet service"**
10 **means a connection to the Internet that provides capacity for**
11 **transmission at an average speed of at least one (1) megabyte per**
12 **second downstream, regardless of the technology or medium used**
13 **to provide the connection.**
14 **Sec. 3. The corporation shall develop a high speed Internet**
15 **service deployment and adoption initiative that includes the**
16 **creation of a statewide geographic information system (GIS) of**
17 **available telecommunications and information technology services,**

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1 including high speed Internet service. In creating the GIS, the
2 corporation shall:

3 (1) map the availability of high speed Internet service,
4 including the percentage of households that have access to
5 high speed Internet service, by census blocks established by
6 the Bureau of the Census and depicted in the GIS; and

7 (2) use the map to identify areas where high speed Internet
8 service is inadequate or unavailable.

9 The GIS must be updated at least every six (6) months.

10 Sec. 4. (a) The corporation may declare data or other
11 information received as part of the high speed Internet service
12 deployment and adoption initiative as confidential for purposes of
13 IC 5-14-3-4.

14 (b) If a person that submits data or other information to the
15 corporation as part of the high speed Internet service deployment
16 and adoption initiative designates the data or other information as
17 confidential, the corporation shall declare the data or information
18 as confidential for purposes of IC 5-14-3-4.

19 (c) The corporation may enter into a nondisclosure agreement
20 with a person described in subsection (b) concerning proprietary
21 data or other information that the person submits to the
22 corporation as part of the high speed Internet service deployment
23 and adoption initiative.

24 Sec. 5. The corporation may contract with one (1) or more
25 organizations to develop all or part of the initiative described in
26 section 3 of this chapter. An organization must have demonstrated
27 competency in working with the public and private sectors to
28 accomplish deployment and adoption of high speed Internet service
29 and telecommunications and information technologies.

30 Sec. 6. This chapter may not be construed as authorizing the
31 corporation to regulate communications service providers (as
32 defined in IC 8-1-32.5-4).

33 Sec. 7. In implementing this chapter, the corporation shall
34 consult with the Indiana finance authority to avoid unnecessary
35 duplication of efforts under this chapter and IC 8-1-33.

36 SECTION 2. IC 6-2.5-5-13 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) As used in this
38 section, "broadband service" means a connection to the Internet
39 that provides capacity for transmission at an average speed of at
40 least one (1) megabyte per second downstream, regardless of the
41 technology or medium used to provide the connection.

42 (b) As used in this section, "cable service" has the meaning set

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1 **forth in 47 U.S.C. 522(6).**

2 **(c) Transactions involving tangible personal property are exempt**
 3 **from the state gross retail tax, if any of the following applies:**

4 **(1) The property is:**

5 **(A) classified as central office equipment, station equipment**
 6 **or apparatus, station connection, wiring, or large private**
 7 **branch exchanges according to the uniform system of accounts**
 8 **which was adopted and prescribed for the utility by the Indiana**
 9 **utility regulatory commission; or**

10 **(B) mobile telecommunications switching office equipment,**
 11 **radio or microwave transmitting or receiving equipment,**
 12 **including, without limitation, towers, antennae, and property**
 13 **that perform a function similar to the function performed by**
 14 **any of the property described in clause (A); or**

15 **(C) mobile telecommunications customer equipment**
 16 **provided at no additional charge to a customer whose**
 17 **place of primary use is in Indiana;**

18 **and ~~(2)~~ the person acquiring the property furnishes or sells**
 19 **intrastate telecommunication service in a retail transaction**
 20 **described in IC 6-2.5-4-6.**

21 **(2) The property is:**

22 **(A) capable of providing broadband service;**

23 **(B) owned by or leased to a broadband service provider;**
 24 **and**

25 **(C) not located inside a customer's place of primary use.**

26 **Property under this subdivision does not include personal**
 27 **computers, modems, set top boxes, or related items used by a**
 28 **customer to facilitate a broadband connection.**

29 **(3) The property is:**

30 **(A) used in the delivery, transmission, or provision of**
 31 **cable service; and**

32 **(B) not located inside a subscriber's place of primary**
 33 **use;**

34 **and the person acquiring the property furnishes or sells**
 35 **cable service that terminates in Indiana in a retail**
 36 **transaction described in IC 6-2.5-4-11. Property under this**
 37 **subdivision does not include set top boxes or related items**
 38 **used by a customer inside the customer's place of primary**
 39 **use to facilitate the subscriber's interaction with the cable**
 40 **service.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 523, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, delete "6(1)" and insert "3".

Page 1, line 11, delete "two hundred (200)" and insert "**one (1) megabyte**".

Page 1, line 12, delete "kilobits".

Page 1, delete lines 14 through 17, begin a new paragraph and insert:

"Sec. 3. The corporation shall develop a high speed Internet service deployment and adoption initiative that includes the creation of a statewide geographic information system (GIS) of available telecommunications and information technology services, including high speed Internet service. In creating the GIS, the corporation shall:

- (1) map the availability of high speed Internet service, including the percentage of households that have access to high speed Internet service, by census blocks established by the Bureau of the Census and depicted in the GIS; and**
- (2) use the map to identify areas where high speed Internet service is inadequate or unavailable."**

Delete page 2.

Page 3, line 1, beginning with "The" begin a new line blocked left.

Page 3, delete lines 2 through 31, begin a new paragraph and insert:

"Sec. 4. (a) The corporation may declare data or other information received as part of the high speed Internet service deployment and adoption initiative as confidential for purposes of IC 5-14-3-4.

(b) If a person that submits data or other information to the corporation as part of the high speed Internet service deployment and adoption initiative designates the data or other information as confidential, the corporation shall declare the data or information as confidential for purposes of IC 5-14-3-4.

(c) The corporation may enter into a nondisclosure agreement with a person described in subsection (b) concerning proprietary data or other information that the person submits to the corporation as part of the high speed Internet service deployment and adoption initiative."

Page 3, line 32, delete "7." and insert "5."

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Page 3, line 32, delete "a nonprofit" and insert "**one (1) or more organizations**".

Page 3, line 33, delete "organization".

Page 3, line 34, delete "4" and insert "**3**".

Page 3, line 34, delete "The nonprofit" and insert "**An**".

Page 3, line 39, delete "8." and insert "**6.**".

Page 3, line 42, delete "9." and insert "**7.**".

Page 4, line 7, delete "two hundred (200) kilobits" and insert "**one (1) megabyte**".

Page 4, between lines 8 and 9, begin a new paragraph and insert:

"(b) As used in this section, "cable service" has the meaning set forth in 47 U.S.C. 522(6)."

Page 4, line 9, delete "(b)" and insert "**(c)**".

Page 4, line 10, delete "either" and insert "**any**".

Page 4, delete lines 36 through 42, begin a new line block indented and insert:

"(3) The property is:

(A) used in the delivery, transmission, or provision of cable service; and

(B) not located inside a subscriber's place of primary use;

and the person acquiring the property furnishes or sells cable service that terminates in Indiana in a retail transaction described in IC 6-2.5-4-11. Property under this subdivision does not include set top boxes or related items used by a customer inside the customer's place of primary use to facilitate the subscriber's interaction with the cable service."

Delete page 5.

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 523 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

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